

R311. Environmental Quality, Environmental Response and Remediation.

R311-200. Underground Storage Tanks: Definitions.

R311-200-1. Definitions.

- (a) Refer to Section 19-6-402 for definitions not found in this rule.
- (b) For purposes of underground storage tank rules:
 - (1) "Actively participated" for the purpose of the certification programs means that the individual applying for certification must have had operative experience for the entire project from start to finish, whether it be an installation or a removal.
 - (2) "Alternative fuel" means a petroleum-based fuel containing:
 - (A) more than ten percent ethanol, or
 - (B) more than twenty percent biodiesel.
 - (~~2~~)3 "As-~~built~~ drawing" [~~as constructed drawing, record drawing~~]-for purpose of notification [~~refers to~~]means a drawing to scale of newly constructed USTs. The USTs shall be referenced to buildings, streets and limits of the excavation. The drawing shall show the locations of tanks, product lines, dispensers, vent lines, cathodic protection systems, and monitoring wells. Drawing size shall be limited to 8-1/2" x 11" if possible, but shall in no case be larger than 11" x 17".
 - (~~3~~)4 "Automatic line leak detector test" means a test that simulates a leak, and causes the leak detector to restrict or shut off the flow of regulated substance through the piping or trigger an audible or visual alarm.
 - (~~4~~)5 "Backfill" means any foreign material, usually pea gravel or sand, which usually differs from the native soil and is used to support or cover the underground storage tank system.
 - (6) "Biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100.
 - (~~5~~)7 "Burden" means the addition of the percentage of indirect costs which are added to raw labor costs.
 - (~~6~~)8 "Certificate" means a document that evidences certification.
 - (~~7~~)9 "Certification" means approval by the Executive Secretary or the Board to engage in the activity applied for by the individual.
 - (~~8~~)10 "Change-in-service" means the continued use of an UST to store a non-regulated substance.
 - (11) "Community Water System" means a public water system that serves at least fifteen service connections used by year-round residents or regularly serves at least 25 year-round residents.
 - (~~9~~)12 "Confirmation sample" means an environmental sample taken, excluding closure samples as outlined in Section R311-205-2, during soil overexcavation or any other remedial or investigation activities conducted for the purpose of determining the extent and degree of contamination.
 - (~~10~~)13 "Customary, reasonable and legitimate expenses" means costs incurred during the investigation, abatement and corrective actions that address a release which are normally charged according to accepted industry standards, and which must be justified in an audit as an appropriate cost. The costs must be directly related to the tasks performed.
 - (~~11~~)14 "Customary, reasonable and legitimate work" means work for investigation, abatement and corrective action that is required to reduce contamination at a site to levels that are protective of human health and the environment. Acceptable levels may be established by risk-based analysis and taking into account current or probable land use as determined by the Executive Secretary following the criteria in R311-211.
 - (~~12~~)15 "Department" means the Utah Department of Environmental Quality.
 - (~~13~~)16 "Eligible exempt underground storage tank" for the purpose of eligibility for the Utah Petroleum Storage Tank Trust Fund means a tank specified in 19-6-415(1).
 - (~~14~~)17 "Environmental Consultant" or "Consultant" is an individual who provides or contracts to provide information, an opinion, or advice for a fee, or in conjunction with services for which a fee is charged, relating to underground storage tank management, release abatement, investigation, corrective action, or evaluation.
 - (~~15~~)18 "Environmental sample" is a groundwater, surface water, air, or soil sample collected, using appropriate methods, for the purpose of evaluating environmental contamination.

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([16]19) "EPA" means the United States Environmental Protection Agency.

([17]20) "Expediently disposed of" means disposed of as soon as practical so as not to become a potential threat to human health or safety or the environment, whether foreseen or unforeseen as determined by the Executive Secretary.

([18]21) "Fiscal year" means a period beginning July 1 and ending June 30 of the following year.

([19]22) "Full installation" for the purposes of 19-6-411(2) means the installation of an underground storage tank.

([20]23) "Groundwater sample" is a sample of water from below the surface of the ground collected according to protocol established in Rule R311-205.

([21]24) "Groundwater and soil sampler" is the person who performs environmental sampling for compliance with Utah underground storage tank rules.

([22]25) "In use" means that an operational, inactive or abandoned underground storage tank contains a regulated substance, sludge, dissolved fractions, or vapor which may pose a threat to human health, safety or the environment as determined by the Executive Secretary.

([23]26) "Lapse" in reference to the Certificate of Compliance and coverage under the Petroleum Storage Tank Trust Fund, means to terminate automatically.

([24]27) "Native soil" means any soil that is not backfill material, which is naturally occurring and is most representative of the localized subsurface lithology and geology.

([25]28) "No Further Action determination" means that the Executive Secretary has evaluated information provided by responsible parties or others about the site and determined detectable petroleum contamination from a particular release does not present an unacceptable risk to public health or the environment based upon Board established criteria in R311. If future evidence indicates contamination from that release may cause a threat, further corrective action may be required.

([26]29) "Notice of agency action" means any enforcement notice, notice of violation, notice of non-compliance, order, or letter issued to an individual for the purpose of obtaining compliance with underground storage tank rules and regulations.

([27]30) "Occurrence" in reference to Subsection R311-208-4 means a separate petroleum fuel delivery to a single tank.

([28]31) "Owners and operators" means either an owner or operator, or both owner and operator.

([29]32) "Overexcavation" means any soil removed in an effort to investigate or remediate in addition to the minimum amount required to remove the UST or take environmental samples during UST closure activities as outlined in Section R311-205-2.

([30]33) "Permanently closed" means underground storage tanks that are removed from service following guidelines in 40 CFR Part 280 Subpart G adopted by Section R311-202.

([31]34) "Petroleum storage tank" means a storage tank that contains petroleum as defined by Section 19-6-402(20).

([32]35) "Petroleum storage tank fee" means the fee which capitalizes the Petroleum Storage Tank Trust Fund as established in Section 19-6-409.

([33]36) "Petroleum storage tank trust fund" means the fund created by Section 19-6-409.

(37) "Potable Drinking Water Well" means any hole (dug, driven, drilled, or bored) that extends into the earth until it meets groundwater which supplies water for a non-community public water system, or otherwise supplies water for household use (consisting of drinking, bathing, and cooking, or other similar uses). Such well may provide water to entities such as a single-family residence, group of residences, businesses, schools, parks, campgrounds, and other permanent or seasonal communities.

(38) "Public Water System" means a system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. It includes any collection, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with the system; and, any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

([34]39) "Registration fee" means underground storage tank registration fee.

~~([35]~~40) "Regulated substance" means any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act "CERCLA" of 1980, but not including any substance regulated as a hazardous waste under subtitle C, and petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure, 60 degrees Fahrenheit and 14.7 pounds per square inch absolute. The term "regulated substance" includes petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, and includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(41) "Secondary Containment" means a release prevention and detection system for a tank or piping that has an inner and outer barrier with an interstitial space between them for monitoring. The monitoring of the interstitial space shall meet the requirements of 40 CFR 280.43(g).

~~([36]~~42) "Site assessment" or "site check" is an evaluation of the level of contamination at a site which contains or has contained an UST.

~~([37]~~43) "Site assessment report" is a summary of relevant information describing the surface and subsurface conditions at a facility following any abatement, investigation or assessment, monitoring, remediation or corrective action activities as outlined in Rule R311-202, Subparts E and F.

~~([38]~~44) "Site investigation" is work performed by the owner or operator, or his designee, when gathering information for reports required for Utah underground storage tank rules.

~~([39]~~45) "Site plat" for purpose of notification, or reporting, refers to a drawing to scale of USTs in reference to the facility. The scale should be dimensioned appropriately. Drawing size shall be limited to 8-1/2" x 11" if possible, but shall in no case be larger than 11" x 17". The site plat should include the following: property boundaries; streets and orientation; buildings or adjacent structures surrounding the facility; present or former UST(s); extent of any excavation(s) and known contamination and location and volume of any stockpiled soil; locations and depths of all environmental samples collected; locations and total depths of monitoring wells, soil borings or other measurement or data points; type of ground-cover; utility conduits; local land use; surface water drainage; and other relevant features.

~~([40]~~46) "Site under control" means that the site of a release has been actively addressed by the owner or operator who has taken the following measures:

(A) Fire and explosion hazards have been abated.

(B) Free flow of the product out of the tank has been stopped.

(C) Free product is being removed from the soil, groundwater or surface water according to a work plan or corrective action plan approved by the Executive Secretary.

(D) Alternative water supplies have been provided to affected parties whose original water supply has been contaminated by the release.

(E) A soil or groundwater management plan or both have been submitted for approval by the Executive Secretary.

~~([41]~~47) "Soil sample" is a sample collected following the protocol established in Rule R311-205.

~~([42]~~48) "Surface water sample" is a sample of water, other than a groundwater sample, collected according to protocol established in Rule R311-205.

~~([43]~~49) "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials, such as concrete, steel, or plastic, that provide structural support.

~~([44]~~50) "UAPA-exempt orders" are orders that are exempt from requirements of the Utah Administrative Procedures Act under Section 63-46b-1(2)(k), Utah Code Annot.

(51) "Under-Dispenser Containment" means containment underneath a dispenser that will prevent leaks from the dispenser or transitional components that connect the piping to the dispenser (check valves, shear valves, unburied risers or flex connectors, or other components that are beneath the dispenser) from reaching soil or groundwater.

~~([45]~~52) "Underground storage tank" or "UST" means any one or combination of tanks, including underground pipes connected thereto and any underground ancillary equipment and containment system, that is used to contain an accumulation of regulated substances, and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground, regulated

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under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C., Section 6991c et seq.

(~~146~~53) "Underground storage tank registration fee" means the fee assessed by Section 19-6-408 on tanks located in Utah.

(~~147~~54) "UST inspection" is the inspection required by state and federal underground storage tank rules and regulations during the installation, testing, repairing, operation or maintenance, and removal of regulated underground storage tank.

(~~148~~55) "UST inspector" is an individual who performs underground storage tank inspections for compliance with state and federal rules and regulations.

(~~149~~56) "UST installation" means the installation of an underground storage tank, including construction, placing into operation, building or assembling an underground storage tank in the field. It includes any operation that is critical to the integrity of the system and to the protection of the environment, which includes:

(A) pre-installation tank testing, tank site preparation including anchoring, tank placement, and backfilling;

(B) vent and product piping assembly;

(C) cathodic protection installation, service, and repair;

(D) internal lining;

(E) secondary containment construction; and

(F) UST repair and service.

(~~150~~57) "UST installation permit fee" means the fee established by Section 19-6-411(2)(a)(ii).

(~~151~~58) "UST installer" means an individual who engages in underground storage tank installation.

(~~152~~59) "UST removal" means the removal of an underground storage tank system, including permanently closing and taking out of service all or part of an underground storage tank.

(~~153~~60) "UST remover" means an individual who engages in underground storage tank removal.

(~~154~~61) "UST tester" means an individual who engages in UST testing.

(~~155~~62) "UST testing" means a testing method which can detect leaks in an underground storage tank system, or testing for compliance with corrosion protection requirements. Testing methods must meet applicable performance standards of 40 CFR 280.40(a)(3), 280.43(c), and 280.44(b) for tank and product piping tightness testing, 280.44(a) for automatic line leak detector testing, and 280.31(b) for cathodic protection testing.

Definitions are added or modified to implement changes made elsewhere in the UST rules.

KEY: petroleum, underground storage tanks

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R311. Environmental Quality, Environmental Response and Remediation.

R311-203. Underground Storage Tanks: ~~[Notification, New Installations, Registration Fees, and Testing Requirements]~~Technical Standards.

R311-203-1. Definitions.

Definitions are found in [~~Section~~]Rule R311-200.

R311-203-2. Notification.

(a) The owner or operator of an underground storage tank shall notify the Executive Secretary whenever:

(1) new USTs are brought into use;

(2) the owner or operator changes;

- (3) changes are made to the tank or piping system;~~[-or]~~
- (4) release detection, corrosion protection, or spill or overfill prevention systems are installed, changed or upgraded~~[-], and~~
- (5) whenever an alternative fuel is stored in the tank.
- (b) All notifications shall be submitted on the current approved notification form~~[- within 30 days of the completion of the work or the change of ownership].~~
- ~~[(c) Notifications shall include the latitude and longitude of the facility.]~~
- (1) Notifications submitted to meet the requirements of R311-203-2(a)(1) through (4) shall be submitted within 30 days of the completion of the work or the change of ownership.
- (2) Notifications submitted to meet the requirement of R311-203-2(a)(5) shall be submitted at least 10 days, or another time period approved by the Executive Secretary, prior to storing an alternative fuel in the tank.
- ~~[(d)]~~(c) To satisfy the requirement of Subsection 19-6-407(1)(c) the certified installer shall:
 - (1) complete the appropriate section of the notification form to be submitted by the owner or operator, and ensure that the notification form is submitted by the owner or operator within 30 days of completion of the installation; or
 - (2) provide separate notification to the Executive Secretary within 60 days of the completion of the installation.

Due to possible compatibility problems with the use of ethanol or biodiesel fuels in underground storage tanks, a notification requirement is added so owner/operators will notify at least 10 days, or another approved time period, before using those fuels in their tanks. It will then be possible to ensure that no compatibility problems will occur. The federal regulations (40 CFR 280.32) already require that UST systems be compatible with the substance stored. Definitions for "alternative fuel" and "biodiesel" are added to R311-200-1. The definitions specify minimum percentages of ethanol (10%) and biodiesel (20%), so the use of these components in lesser percentages would not require notification. The requirement for owner/operators to include the facility latitude and longitude with notifications is removed. The DERR currently has the ability to determine latitude and longitude of facilities using mapping software, so this requirement is removed from the rules.

R311-203-3. New Installations, Permits.

- (a) Certified UST installers ~~[who intend to perform any of the activities listed in R311-203-3(c) or R311-203-3(d)(1) through (4)]~~ shall notify the Executive Secretary at least ~~[3]~~10 days, or another time period approved by the Executive Secretary, before commencing ~~[the activity.]~~ any of the following activities:
 - (1) the installation of a full UST system or tank only;
 - (2) the installation of underground product piping for one or more tanks at a facility, separate from the installation of one or more tanks at a facility;
 - (3) the internal lining of a previously-existing tank;
 - (4) the installation of a cathodic protection system on one or more previously-existing tanks at a facility where the structural integrity of the UST was required to be assessed, or where there is no documentation of a properly-working cathodic protection system on the UST within 10 years of the proposed upgrade;
 - (5) the installation of a bladder in a tank;
 - (6) any retro-fit, replacement, or installation that requires the cutting of a manway into the tank;
 - (7) the installation of a spill prevention or overfill prevention device;
 - (8) the installation of a leak detection monitoring system; and
 - (9) the installation of a containment sump or under-dispenser containment.
- (b) The UST installation company shall submit to the Executive Secretary an UST installation permit fee of \$200 when any of the activities listed in R311-203-3(a)(1) through (6) is performed on an UST system that has not qualified for a certificate of compliance before the commencement of the work.
- ~~[(b)]~~(c) The fees assessed under 19-6-411(2)(a)(i) shall be determined based on the number of full

UST installations performed by the installation company in the 12 months previous to the fee due date. Installations for which the fee assessed under 19-6-411(2)(a)(ii) and R311-203-3(e)b is charged shall count toward the total installations for the 12-month period.

~~[(c) The UST installation company shall submit to the Executive Secretary an UST installation permit fee of \$200 when the following work is performed on an UST system that has not qualified for a certificate of compliance before the commencement of the work:~~

- ~~—— (1) each full UST system installation;~~
- ~~—— (2) the installation of underground product piping for one or more tanks at a facility, separate from the installation of one or more tanks at a facility;~~
- ~~—— (3) the internal lining of a previously existing tank;~~
- ~~—— (4) the installation of a cathodic protection system on one or more previously existing tanks at a facility where the structural integrity of the UST was required to be assessed, or there is no documentation of a properly working cathodic protection system on the UST within 10 years of the proposed upgrade;~~
- ~~—— (5) the installation of a bladder in a tank, or any other retro fit, replacement, or installation that requires the cutting of a manway into the tank, or~~
- ~~—— (6) installation of other UST system components as determined by the Executive Secretary.~~

~~(d) The UST installation permit fee shall not be required when the following activities are performed separately from the activities listed in R311-203-3(e):~~

- ~~—— (1) installation of spill prevention devices;~~
- ~~—— (2) installation of overfill prevention devices;~~
- ~~—— (3) installation of a leak detection monitoring system;~~
- ~~—— (4) installation of an automatic line leak detector; or~~
- ~~—— (5) replacement or repair of valves, dispensers, or leak detection system components.~~

~~(e) When a new UST system, tank only, or product piping only is installed, the owner or operator shall submit to the Executive Secretary a site plat or an as-built drawing, to scale, which shall include: the excavation, buildings, tanks, product lines, vent lines, cathodic protection systems, tank leak detection systems, and product line leak detection systems.]~~

~~[(f)d] For the purposes of Subsections 19-6-411(2)(a)(ii), 19-6-407(1)(c), and R311-203-2(d)c, an installation shall be considered complete when:~~

~~(1) in the case of installation of a new UST system, tank only, or product piping only, the new installation first holds a regulated substance; or~~

~~(2) in the case of installation of the components listed in Subsections R311-203-3(e)a(3) through [R311-203-3(e)a(6), the new installation is functional and the UST holds a regulated substance and is operational.~~

~~[(g)e] If, before completion of an installation for which an UST installation permit fee is required, the owner or operator decides to install additional UST system components, the installer shall notify the Executive Secretary of the change. When additions are made, the UST installation permit fee shall not be increased unless the original UST installation permit fee would have been higher had the addition been considered at the time the original fee was determined.~~

~~[(h)f] The number of UST installation companies performing work on a particular installation shall not be a factor in determining the UST installation permit fee for that installation. However, each installation company shall identify itself at the time the UST installation permit fee is paid.~~

~~(g) When a new UST system, tank only, product piping only, or new cathodic protection system is installed, the owner or operator shall submit to the Executive Secretary an as-built drawing, to scale, that meets the requirements of R311-200-1(b)(3).~~

This section is re-organized to clarify the requirement for the pre-installation notification that is given by certified installers. By rule, installers are currently required to notify before performing several types of UST-related installation activities, some of which require the payment of an installation permit fee. Installers generally have not been providing notification if they perform work that does not require the payment of the permit fee. To help ensure that notification is given for all critical activities, the section is re-written to clarify

the requirement, add a requirement for notification before installation of containment sumps or under-dispenser containment, and remove the requirements for notification before installation of line leak detectors and "replacement or repair of valves, dispensers, or leak detection system components." The time frame for the pre-installation notification is changed from 30 days before installation to 10 days, recognizing that the installers often have less than 30 days advance notice before beginning a job. The requirement for submittal of an as-built site drawing is modified, and is moved from subsection (e) to (g), for clarification. The list of items to be shown in the drawing, currently part of the text of R311-203-3(e), is moved to the definition of "As-built drawing" in R311-200-1(b).

R311-203-4. Underground Storage Tank Registration Fee.

(a) Registration fees shall be assessed by the Department against all tanks which are not permanently closed for the entire fiscal year, and shall be billed per facility.

(b) Registration fees shall be due on July 1 of the fiscal year for which the assessment is made, or, for underground storage tanks brought into use after the beginning of the fiscal year, underground storage tank registration fees shall be due when the tanks are brought into use, as a requirement for receiving a certificate of compliance.

(c) The Executive Secretary may waive all or part of the penalty assessed under Subsection 19-6-408(5) if no fuel has been dispensed from the tank on or after July 1, 1991 and if the tank has been properly closed according to Sections R311-204 and R311-205, or in other circumstances as approved by the Executive Secretary.

(d) The Executive Secretary shall issue a certificate of registration to owners or operators for individual underground storage tanks at a facility if:

- (1) the tanks are in use or are temporarily closed according to 40 CFR Part 280 Subpart G; and,
- (2) the underground storage tank registration fee has been paid.

(e) Pursuant to 19-6-408(5)(c), all past due registration fees, late payment penalties and interest must be paid before the Executive Secretary may issue or re-issue a certificate of compliance regardless of whether there is a new owner or operator at the facility. However, the Executive Secretary may decline active collection of past due registration fees, late payment penalties and interest if a certificate of compliance is not issued and the new owner or new operator properly closes the underground storage tanks within one year of becoming the new owner or operator of the facility.

R311-203-5. UST Testing Requirements.

(a) Tank tightness testing. The testing method must be able to test the UST system at the maximum level that could contain regulated substances. Tanks with overfill prevention devices that prevent product from entering the upper portion of the tank may be tested at the maximum level allowed by the overfill device.

(b) Automatic line leak detector testing. Line leak detectors shall be tested annually for functionality according to 40 CFR 280.44(a) and R311-200-1(b)(~~3~~4). An equivalent test may be approved by the Executive Secretary. The test shall simulate a leak and provide a determination based on the test whether the leak detector functions properly and meets the requirements of 40 CFR 280.44(a). If a sump sensor is used as an automatic line leak detector, the sensor shall be located as close as is practical to the lowest portion of the sump.

(c) Containment sump testing. When a sump sensor is used as a leak detector, the secondary containment sump shall be tested for tightness annually according to the manufacturer's guidelines or standards, or by another method approved by the Executive Secretary.

(d) Cathodic protection testing. Cathodic protection tests shall meet the inspection criteria outlined in 40 CFR 280.31(b)(2), or other criteria approved by the Executive Secretary. The tester who performs the test shall provide the following information: location of at least three test points per tank, test results in volts or millivolts, pass/fail determination for each tank, line, flex connector, or other UST system component tested, the criteria by which the pass/fail determination is made, and a site plat showing locations of test points. A re-test of any cathodic protection system is required within six months of any below-grade work that may harm the integrity of the system.

(e) UST testers performing tank and line tightness testing shall include the following as part of the test report: pass/fail determination for each tank or line tested, the measured leak rate, the test duration, the product level for tank tests, the pressure used for pressure tests, the type of test, and the test equipment used.

Add requirements for cathodic protection testing: at least three test points per tank, and re-test after below-grade work that could compromise the integrity of the system.

R311-203-6. Secondary Containment and Under-dispenser Containment.

(a) Secondary containment for tanks and piping.

(1) To meet the requirements of Section 42 USC 6991b(i) of the Solid Waste Disposal Act, all tanks and product piping that are installed as part of an underground storage tank system after October 1, 2008 shall have secondary containment if the installation is located 1000 feet or less from an existing community water system or an existing potable water drinking water well.

(2) The secondary containment installed under Subsection (a) shall meet the requirements of 40 CFR 280.42(b), and shall be monitored monthly for releases from the tank and piping. Monthly monitoring shall meet the requirements of 40 CFR 280.43(g).

(3) Containment sumps for piping that is installed under Subsection (a) shall be required:

(A) at the submersible pump or other location where the piping connects to the tank;

(B) where the piping connects to a dispenser, or otherwise goes above-ground; and

(C) where double-walled piping that is required under Subsection (a) connects with existing piping.

(4) Containment sumps for piping that is installed under Subsection (a) shall:

(A) contain submersible pumps, check valves, unburied risers, flexible connectors and other transitional components that connect the piping to the tank, dispenser, or existing piping, and

(B) meet the requirements of Subsections (b)(2)(A) through (C).

(5) In the case of a replacement of tank or piping, only the portion of the UST system being replaced shall be subject to the requirements of subsection (a). If less than 100 percent of the piping from a tank to a dispenser is replaced, the requirements of subsection (a) shall apply to all new product piping that is installed. The closure requirements of R311-205 shall apply to all product piping that is taken out of service. When new piping is connected to existing piping that is not taken out of service, the connection between the new and existing piping shall be secondarily contained, and shall be monitored for releases according to 40 CFR 280.43(g).

(6) The requirements of Subsection (a) shall not apply to:

(A) piping that meets the requirements for "safe suction" piping in 40 CFR 280.41(b)(2)(i) through (v), or

(B) piping that connects two or more tanks to create a siphon system.

(7) The requirements of Subsection (a) shall apply to emergency generator USTs installed after October 1, 2008.

(b) Under-dispenser containment.

(1) To meet the requirements of Section 42 USC 6991b(i) of the Solid Waste Disposal Act, all new motor fuel dispenser systems installed after October 1, 2008, and connected to an underground storage tank, shall have under-dispenser containment if the installation is located 1000 feet or less from an existing community water system or an existing potable drinking water well.

(2) The under-dispenser containment shall:

(A) be liquid-tight on its sides, bottom, and at all penetrations;

(B) be compatible with the substance conveyed by the piping, and;

(C) allow for visual inspection and access to the components in the containment system, or shall be continuously monitored for the presence of liquids.

(3) If an existing dispenser is replaced, the requirements of subsection (b) shall apply to the new dispenser if any equipment used to connect the dispenser to the underground storage tank system is replaced. This equipment includes unburied flexible connectors, risers, and other transitional components that are beneath the dispenser and connect the dispenser to the product piping.

(c) The requirements of subsections (a) and (b) shall not apply if the installation is located more than 1000 feet from an existing community water system or an existing potable drinking water well.

(1) The UST owner or operator shall provide to the Executive Secretary documentation to show that the requirements of subsections (a) and (b) do not apply to the installation. The documentation shall be provided at least 60 days before the beginning of the installation, and shall include:

(A) a detailed to-scale map of the proposed installation that demonstrates that no part of the installation is within 1000 feet of any community water system, potable drinking water well, or any well the owner or operator plans to install at the facility, and

(B) a certified statement by the owner or operator explaining who researched the existence of a community water system or potable drinking water well, how the research was conducted, and how the proposed installation qualifies for an exemption from the requirements of Subsections (a) and (b).

(d) To determine whether the requirements of Subsections (a) and (b) apply, the distance from the UST installation to an existing community water system or existing potable drinking water well shall be measured from the closest part of the new underground tank, piping, or motor fuel dispenser system to:

(1) the closest part of the nearest community water system, including:

(A) the location of the wellheads for groundwater and/or the location of the intake points for surface water

(B) water lines, processing tanks, and water storage tanks, and,

(C) water distribution/service lines under the control of the community water system operator, or

(2) the wellhead of the nearest existing potable drinking water well.

(e) If a new underground storage tank facility is installed, and is not within 1000 feet of an existing community water system or an existing potable drinking water well, the requirements of subsections (a) and (b) apply if the owner or operator installs a potable drinking water well at the facility that is within 1000 feet of the underground tanks, piping, or motor fuel dispenser system, regardless of the sequence of installation of the UST system, dispenser system, and well.

The federal Energy Policy Act of 2005 contains several new requirements for the underground storage tank program. One of them, Additional Measures to Protect Groundwater, requires that state UST programs put in place one of two options: require secondary containment and under-dispenser containment on most new installations, or require tank manufacturers and installers to have financial responsibility to cover their products and installations. After studying the two options, it was decided to implement the secondary containment option. Most new tank and piping installations already have secondary containment: double-walled tanks and piping, with piping containment sumps at the tanks and dispensers. The increased cost of double walled tanks and piping is not significantly greater than the cost of single-walled products when the additional cost that would be required for financial responsibility is factored in. Secondary containment helps prevent releases to the environment, and offsets the greater cost of cleaning up leaks. In addition, many equipment manufacturers have said they may not market their products in states that require manufacturer and installer financial responsibility. The new section R311-203-6 implements the federal requirement, specifying that new tanks and piping have secondary containment and interstitial monitoring, and requiring under-dispenser containment on newly-installed or upgraded product dispensers. The requirements apply if the new installation is within 1000 feet of a community water system or a potable drinking water well. It is anticipated that these requirements will apply to almost all new installations, because they will be within 1000 feet of a community water system. The rule provides for situations in which less than a full UST installation is performed (partial piping replacement, replacement of dispensers only, etc.). It also provides for an exemption from the requirements if an owner/operator can document that the installation does not fall within 1000 feet of a community water system or potable drinking water well. Definitions for this new section are added to R311-200-1(b).

Notice of Continuation: April 18, 2007

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-408

R311. Environmental Quality, Environmental Response and Remediation.

R311-206. Underground Storage Tanks: Financial Assurance Mechanisms.

R311-206-3. Requirements for Issuance of Certificates of Compliance.

(a) The Executive Secretary shall issue a certificate of compliance to an owner or operator for individual petroleum storage tanks at a facility if:

- (1) the owner or operator has a certificate of registration;
- (2) the tank is substantially in compliance with all state and federal statutes, rules and regulations;
- (3) the UST test, conducted within 6 months before the tank was registered or within 60 days after the date the tank was registered, indicates that each individual UST is not leaking;
- (4) the owner or operator has submitted a letter to the Executive Secretary stating that based on customary business inventory practices standards there has been no release from the tank;[~~and~~]
- (5) the owner or operator has submitted a completed application according to a form provided and approved by the Executive Secretary, and has declared the financial assurance mechanism that will be used;[~~and~~]
- (6) the owner or operator has met all requirements for the financial assurance mechanism chosen, including payment of all applicable fees[~~;~~]; and
- (7) the owner or operator has submitted an as-built drawing that meets the requirements of R311-200-1(b)(3).

Add a requirement that the UST owner or operator submit an as-built drawing as a requirement to obtain a certificate of compliance for a new installation. This requirement has been in the rules for some time, but owner/operators rarely submit the drawing. The requirement is strengthened by tying it to issuance of a certificate of compliance. Certificates will not be issued for a new facility if an as-built drawing has not been received.